

A bill for an act

relating to taxation; individual income; providing a military retirement pay subtraction and repealing the military retirement pay credit; amending Minnesota Statutes 2008, sections 290.01, subdivision 19b; 290.0677, subdivision 2; 290.091, subdivision 2; repealing Minnesota Statutes 2008, section 290.0677, subdivision 1a.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or

tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means

the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the

case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325; ~~and~~

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; and

(18) to the extent included in federal taxable income, a percentage of compensation received from a pension or other retirement pay from the federal government for service in the military, as computed under United States Code, title 10, sections 1401 to 1412, 1447 to 1455, and 12733, as follows: (i) for taxable years beginning after December 31, 2008, and before January 1, 2010, the percentage is ten percent; (ii) for taxable years beginning after December 31, 2009, and before January 1, 2011, the percentage is 20 percent; (iii) for taxable years beginning after December 31, 2010, the percentage is 30 percent, except that if the commissioner determines that the number of individuals claiming this subtraction in any taxable year beginning after December 31, 2010, is at least 1,000 greater than the number claiming this subtraction in the taxable year beginning after December 31, 2008, and before January 1, 2010, then the percentage increases by ten percentage points per year in each of the three following taxable years, and if the commissioner determines that the number of individuals claiming this subtraction in any taxable year beginning after the first taxable year in which the percentage is 60 percent is at least 2,000 greater than the number claiming this subtraction in the taxable year beginning after December 31, 2008, and before January 1, 2010, then the percentage increases by ten percentage points per year in each of the four following taxable years.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 2. Minnesota Statutes 2008, section 290.0677, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

5.1 (b) "Designated area" means a:

5.2 (1) combat zone designated by Executive Order from the President of the United
5.3 States;

5.4 (2) qualified hazardous duty area, designated in Public Law; or

5.5 (3) location certified by the U. S. Department of Defense as eligible for combat zone
5.6 tax benefits due to the location's direct support of military operations.

5.7 (c) "Active military service" means active duty service in any of the United States
5.8 Armed Forces, the National Guard, or reserves.

5.9 ~~(d) "Qualified individual" means an individual who has~~

5.10 ~~(1) either (i) served at least 20 years in the military or (ii) has a service-connected~~
5.11 ~~disability rating of 100 percent for a total and permanent disability; and~~

5.12 ~~(2) separated from military service before the end of the taxable year.~~

5.13 ~~(e) "Adjusted gross income" has the meaning given in section 61 of the Internal~~
5.14 ~~Revenue Code.~~

5.15 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.16 December 31, 2008.

5.17 Sec. 3. Minnesota Statutes 2008, section 290.091, subdivision 2, is amended to read:

5.18 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
5.19 terms have the meanings given:

5.20 (a) "Alternative minimum taxable income" means the sum of the following for
5.21 the taxable year:

5.22 (1) the taxpayer's federal alternative minimum taxable income as defined in section
5.23 55(b)(2) of the Internal Revenue Code;

5.24 (2) the taxpayer's itemized deductions allowed in computing federal alternative
5.25 minimum taxable income, but excluding:

5.26 (i) the charitable contribution deduction under section 170 of the Internal Revenue
5.27 Code;

5.28 (ii) the medical expense deduction;

5.29 (iii) the casualty, theft, and disaster loss deduction; and

5.30 (iv) the impairment-related work expenses of a disabled person;

5.31 (3) for depletion allowances computed under section 613A(c) of the Internal
5.32 Revenue Code, with respect to each property (as defined in section 614 of the Internal
5.33 Revenue Code), to the extent not included in federal alternative minimum taxable income,
5.34 the excess of the deduction for depletion allowable under section 611 of the Internal

Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), and (13);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (6) ~~and~~₂ (9) to (16), and (18).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Net minimum tax" means the minimum tax imposed by this section.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 4. REPEALER.

Minnesota Statutes 2008, section 290.0677, subdivision 1a, is repealed.

7.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
7.2 December 31, 2008.

APPENDIX
Repealed Minnesota Statutes: 09-1517

290.0677 MILITARY SERVICE CREDITS.

Subd. 1a. **Credit allowed; past military service.** (a) A qualified individual is allowed a credit against the tax imposed under this chapter for past military service. The credit equals \$750. The credit allowed under this subdivision is reduced by ten percent of adjusted gross income in excess of \$30,000, but in no case is the credit less than zero.

(b) For a nonresident or a part-year resident, the credit under this subdivision must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).